



**TOWN OF WEARE**  
PLANNING BOARD  
ZONING BOARD OF ADJUSTMENT  
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Naomi L. Bolton  
Land Use Coordinator

**Office Hours:**  
Monday  
Tuesday  
Thursday  
8 AM – 4:30 PM

**ZONING BOARD OF ADJUSTMENT  
NON-PUBLIC MINUTES  
AUGUST 3, 2004  
(Approved as amended 10/5/04)**

**PRESENT:** Tim Galvin, Chairman; Forrest Esenwine, Vice Chairman; Leon Methot, Jack Dearborn; June Purington; Matt Pelletier, Alternate; Naomi L. Bolton, Land Use Coordinator.

**GUESTS:** Bill Drescher, Attorney; Heleen Kurk.

**I. NON-PUBLIC SESSION:**

Leon Methot moved to enter into non-public session at 7:10 PM pursuant to RSA 91-A:3 II c to meet with Town Counsel, Forrest Esenwine seconded the motion. A roll call vote was taken: Methot-yes; Purington-yes; Galvin-yes; Esenwine-yes; Dearborn-yes.

In attendance were all of the zoning board members, the land use coordinator, the attorney and Mrs. Kurk.

Attorney Bill Drescher met with the zoning board members to discuss some changes that need to be made to our current variance forms as a result of recent supreme court case decisions.

Chairman Galvin had put together a revised variance form to reflect the two different ways to go, either a use variance or an area variance. Both of the ways would still need to prove practical difficulty.

Attorney Drescher further discussed in detail the changes that need to be made as a result of the two court cases. The first case was Boccia versus Portsmouth, with a decision date of 5/25/04. The second case was Shopland versus the Town of Enfield, with a decision date of 7/15/04.

The board asked Attorney Drescher if there is a problem because this proposed change in the forms won't match what is in the zoning ordinance. Attorney Drescher cautioned the board never to define state law in any ordinances and that case law trumps the local law. He also suggested taking out the hardship points that are discussed individually. The second issue he used as an example was the definition of "subdivision" – it should only refer to the state statute and not parrot it, as the statute can change from time to time.

The Board questioned having to change the variance request and Attorney Drescher informed the board that they can't opt to have a different variance request form than the supreme court when they are statutorily required to have it based on the constitutional grounds.

The Board reviewed the proposed changes to the application, required checklist documentation, appeal forms and instructions to be used by the public with Attorney Drescher, who felt the changes were fine.

**II. ADJOURNMENT:**

Forrest Esenwine moved to exit this non-public session at 9:00 PM, Leon Methot seconded the motion. A roll call vote was taken: Methot-yes; Purington-yes; Galvin-yes; Esenwine-yes; Dearborn.

Respectfully submitted,

Naomi L. Bolton  
Land Use Coordinator

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